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perform the duty. By section 9 of the act of August, 1852, inspectors were directed to be appointed at Buffalo, which was the port where this propeller belonged. The inspectors are to perform the services required of them by the act, within the respective districts for which they shall be appointed; and by the twelfth specification of the section, the Board, when thereto requested, shall inspect steamers belonging to districts where no such Board is established. If this propeller belongs at the port of Buffalo Creek, it is questionable whether a certificate of inspection at the port of Chicago should be adjudged a compliance with the law. But this subject can be more maturely examined hereafter.

THE UNITED STATES *vs.* THE STEAMBOAT "SENECA."

A steamboat employed in transporting passengers between ports in the same State, is not liable to a penalty for not having the hull and boilers inspected under the act of Congress of August 30, 1852, and the District Court has no jurisdiction.

The opinion of the Court was delivered by

MILLER, J.—It is propounded in the information, that at the port of Superior, on Lake Superior, in this District, the Collector of Customs for the Collection District of Michilimackinac, did seize said steamboat and now holds her in his custody within this District, as forfeited to the United States for carrying and transporting goods and passengers between the ports of Superior and Bayfield, on Lake Superior, within this State, without license and the inspection of her hull and boilers required by the Acts of Congress of July 7th, 1838, and August 30th, 1852, and in violation of those acts.

By the information, this steamboat was engaged exclusively in transporting passengers and property between the ports mentioned in the information, which are located on Lake Superior, and within the State of Wisconsin.

It is well settled that the constitutional power of Congress "to

regulate commerce with foreign nations and among the several States," does not embrace the purely internal commerce of a State: *Gibbons vs. Ogden*, 9 Wheat. 1; *Brooks vs. The Steamboat Peytona*, 2 Law Monthly, 518; *Whitaker vs. The Steamboat Fred. Lawrence*, Id. 520; *The New Jersey Steam Navigation Company vs. The Merchants' Bank*, 6 Howard, 344; *Allen vs. Newbury*, 21 Howard, 244.

The act of Congress of July, 1838, provides that it shall not be lawful for the owner, master or captain of any steamboat or vessel propelled in whole or in part by steam, to transport goods, &c., or passengers, in or upon the bays, lakes, rivers, or other navigable waters of the United States, without having first obtained from the proper officer a license under existing laws and without the inspection required, under a penalty of five hundred dollars for each violation of the act. And the act of August, 1852, continues this penalty, for transporting or carrying passengers without inspection. The terms of the act embrace the local employment of this steamboat; but the act must be construed according to the constitutional provision as expounded by judicial authority. The steamboat was employed between places within this State. The contract of affreightment with the steamboat *Fashion*, in *Allen vs. Newbury*, was for the transportation of leather on Lake Michigan between ports in this State. The contract with the steamboat *Fred. Lawrence*, was for a passage on the Mississippi river, between ports in this State. The license required by the act is for carrying on the coasting trade, and the inspection is for the security of the lives of passengers on board of steam vessels. It is evidently an act for the regulation of commerce under the constitution. From the decisions referred to, it is apparent that this Court in Admiralty would not have jurisdiction of this steamboat, while engaged as propounded in the information. And it appears very plainly that jurisdiction cannot be maintained of this information, for the reason that the steamboat is not alleged to be employed in the foreign or coasting trade, but was running between ports and places within the State of Wisconsin; and she was exclusively within and subject to State regulations and control. The District

Court for the State of Missouri, in *The United States vs. The Steamboat James Monroe*, and *The United States vs. The Steam Ferryboat Pope*, 1 Newbury's Reports, 241 and 256, holds the same opinion.

The information will be dismissed for want of jurisdiction.

In the Supreme Court of Pennsylvania, 1862.

ALEXANDER DEAN AND WIFE vs. DANIEL NEGLEY AND STERLEY
CUTHBERT.

1. In an issue to try the validity of a will, which was contested on the ground of undue influence, want of mental capacity, coercion, and on other grounds, it appeared that, by the alleged will, the testator gave a trifling sum to his only legitimate child, and then bequeathed the residue of his property to the children of a woman with whom he was alleged to have been living in adulterous intercourse. There was no direct evidence given or offered of want of mental capacity at the time, or of any actual coercion or influence exerted in the testator as respects the testamentary act; but it was proposed to prove the fact of this adulterous intercourse, which was of long continuance, and which had obliged his wife and daughter to abandon his house, and that the alleged adulteress was a woman of vigorous character, and exerted a despotic influence over his actions generally, in connection with the fact that he was suffering from a painful disease, to relieve which he took opiates, as tending to show undue influence generally. *Held*, that the evidence was admissible for this purpose, on the ground that the relation being an unlawful one, the influence which sprang from it must also be unlawful.
2. *Seemle*, by LOWRIE, C. J., that this would be a presumption of law.

Error to the Court of Common Pleas of Allegheny county.

This was an issue of *devisavit vel non*, directed by the Register's Court of Allegheny County, and tried in the Court below, to determine the validity of a paper purporting to be the last will and testament of one William Johnston, who died on the 4th of December, 1860. By this paper, which bore date the 23d day of December, 1857, the alleged testator, after providing for the payment of debts and legacies in the usual way, and for the erection of a monument to his memory, bequeathed to his only child and daughter, Elizabeth, then Elizabeth Dean, (plaintiff in error,) the sum of \$20. He then gave and bequeathed the residue of his